

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Esrom Demeke,

Plaintiff,

v.

Navient Solutions, Inc. aka Sallie Mae,

Defendant.

Civil Action No.: 1:16-cv-00873-BKS-DJS

COMPLAINT

For this Complaint, Plaintiff, Esrom Demeke, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Esrom Demeke ("Plaintiff"), is an adult individual residing in Centreville, Virginia, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).
4. Defendant Navient Solutions, Inc. aka Sallie Mae ("Navient"), is a business entity located in Albany, New York, the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* ("TCPA").

ALLEGATIONS APPLICABLE TO ALL COUNTS

5. Within the last year, Navient began calling Plaintiff's cellular telephone numbers using an automatic telephone dialing system ("ATDS").
6. When Plaintiff answered calls from Navient, he heard a prerecorded message

which instructed him to hold for the next available representative.

7. In or around December 2015, Plaintiff demanded that the calls to his cellular telephone numbers stop.

8. Nevertheless, Navient continued to place automated calls to Plaintiff's cellular telephone numbers.

COUNT I
VIOLATIONS OF THE TCPA –
47 U.S.C. § 227, et seq.

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein, Defendant called Plaintiff's cellular telephone numbers using an ATDS and using a prerecorded or artificial voice.

11. Defendant continued to place automated calls to Plaintiff's cellular telephone numbers despite knowing that it lacked consent to so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

12. The telephone numbers called by Defendant were assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

13. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

14. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00

for each call made in knowing and/or willful violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be awarded in Plaintiff's favor and against Defendant as follows:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: July 15, 2016

Respectfully submitted,

By /s/ Sergei Lemberg

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